# STATEMENT OF CASE TO DESIGNATE ANSAR ALLAH AS A TERRORIST ENTITY

#### **PURPOSE**

1. The purpose of this paper is to set out the case demonstrating Ansar Allah (also known as The Houthis)<sup>1</sup> meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

## STRUCTURE OF THIS PAPER

- 2. This paper sets out background information about Ansar Allah covering various aspects of the organisation including its objectives, tactics, weapons and structure, before detailing a number of recent attacks which meet the definition of a terrorist act under the TSA.
- 3. The discussion preceding the case studies provides background about Ansar Allah which helps inform the analysis of the specific attacks in the case studies below. The attacks detailed in the case studies represent recent and serious attacks attributed to and/or claimed by Ansar Allah. It is attacks that have been analysed as meeting the definition of a "terrorist act" under s 5 of the TSA, and which provide the basis for the paper's conclusion that Ansar Allah meets the legal criteria for designation as a terrorist entity under the TSA.

## STATUTORY CRITERIA FOR DESIGNATION UNDER THE TSA

- 4. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts.
- 5. A terrorist act is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a terrorist act if that act:
  - 5.1 Is intended to cause:
    - 5.1.1 the death of, or other serious bodily injury to, 1 or more persons (other than a person carrying out the act):
    - 5.1.2 destruction of, or serious damage to, property of great value or importance, or major economic loss, and is likely to result in the death or serious bodily injury of one or more persons; and
  - 5.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and
  - 5.3 Is intended:
    - 5.3.1 to intimidate a population; or
    - 5.3.2 to coerce or to force a government or an international organisation to do or abstain from doing any act.

- Is not an act that occurs in a situation of armed conflict and which is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.
- 5.5 Section 5A(1) deems a terrorist act is carried out if any 1 or more of the following occurs:
  - 5.5.1 planning or other preparations to carry out the act, whether it is actually carried out or not:
  - 5.5.2 a credible threat to carry out the act, whether it is actually carried out or not:
  - 5.5.3 an attempt to carry out the act:
  - 5.5.4 the carrying out of the act.
- 5.6 Section 5(1)(b) provides in the alternative that a terrorist act includes an act against a specified terrorism convention. One such convention is the International Convention Against the Taking of Hostages (Hostage Convention). Article 1(1) of the Hostage Convention provides as follows:
  - 5.6.1 Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or Juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition of the release of the hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention.
- 6. Finally, s 4(1) provides that a terrorist act includes a terrorist act in armed conflict, which is relevantly defined as an act:
  - 6.1 that occurs in a situation of armed conflict; and
  - 6.2 the purpose of which, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or abstain from doing any act; and
  - 6.3 that is intended to cause death or serious bodily injury to a civilian or other person not taking an active part in the hostilities in that situation.

## **CREDIBILITY OF SOURCES**

- 7. This paper has been prepared using a wide range of open or unclassified sources that have a reputation for careful reporting from varying perspectives. These include the AP News, BBC, CNN, Foreign Policy, The Guardian, TIME, Reuters, The Washington Post, and Al Jazeera.
- 8. A range of think tanks were referred to including Safer World Global, Human Rights Watch, Wilson Center, Council on Foreign Relations (CFR), Combating Terrorism Centre (CTC), The Washington Institute for Near East Policy, Counter Extremism Project.

9. Other sources utilised include Amnesty International, Euro-Med Monitor -Relief Web, United nations Security Council (UNSC), Peoples Dispatch, OECDiLibrary, Arab News, U.S. Department of the Treasury, ARES Armament Research Services, US CENTCOM, Arab Center Washington DC, Listed Terrorist Organisations, Australian National Security.

## **BACKGROUND**

- 10. Ansar Allah, also referred to as The Houthis or The Houthi movement, is a militant and political rebel organisation based in northern Yemen. Ansar Allah consists predoiminantly of members who follow the Zaydi school of Shia, a branch of Islam. While Zaydi Shia Islam is not inherently militant, Ansar Allah as an organisation has Islamist objectives. It has been in conflict with the internationally recognised government of Yemen since approximately 2004.
- 11. Ansar Allah has never been designated as a terrorist entity by New Zealand. However, Ansar Allah is subject to targeted arms embargos and a prohibition on training and assistance under UNSC Resolution 2624 (2022) and there are 12 individuals designated by the UN in relation to Yemen, with a variety of sanctions associated.<sup>2</sup>
- 12. On 17 January 2024, The United States Department of State announced the designation of Ansar Allah as Specially Designated Global Terrorist (SDGT) group.<sup>3</sup> Designation as an SDGT provides opportunity to disrupt the Houthi's access to funds in the international financial systems. The US has abstained from designating the group under their more comprehensive framework as a Foreign Terrorist Organisation (FTO) due to the significant impact it would have on their ability to provide humanitarian assistance and support to the Yemeni political and peace process.
- 13. On 23 May 2024, the Australian Attorney-General announced that the Australian Government had listed the group as a terrorist entity. Rationale for this was that its violent attacks in the Gulf of Aden and surrounding region have killed civilians, taken hostages and severely disrupted navigational rights and freedoms in the waters around the Arabian Peninsula, thereby undermining maritime security.<sup>4</sup>

## Establishment Of Ansar Allah

- 14. Ansar Allah emerged in the 1990s as a cultural revivalist movement for the Zaydi sect of Islam in response to increasing Saudi/Wahhabi influence and perception of marginalisation of the Zaydi community by the Yemeni government. The group has since militarized and actively operated an armed resistance.
- 15. Between late 2014 and early 2015, Ansar Allah gained control of the majority of the territory in the former North Yemen, including the capital Sana'a and the Red Sea port city Hodeida. Ansar Allah has maintained control of the majority of North Yemen since.
- During this period, Ansar Allah launched a military campaign against the new government. This eventuated in a civil war across Yemen that remains ongoing as at May 2024, despite a ceasefire that was brokered by the UN between the Saudi-led coalition and Ansar Allah in 2022. This failed to be renewed six months later, and skirmishes have continued.<sup>8</sup>

# Organisation and structure

- 17. Abdul-Malik al-Houthi currently serves as Ansar Allah's leader, having replaced his older brother after the latter was killed in 2004.<sup>9</sup>
- 18. Yahia Badreddin al-Houthi has held the role of "Minister of Education" since 2016 and has since implemented a structure into traditional schools in Houthi controlled areas of Yemen that closely resembles that of training camps in Yemen in the 1990s. These camps were referred to as "summer camps", where children were sent during the school holidays to receive military training.<sup>10</sup>
- 19. Yahya Sarea holds the position of brigadier general for the Yemeni Armed Forces (YAF) as well as military spokesperson. Sarea produces televised speeches claiming responsibility on behalf of Ansar Allah following attacks such as 2024 activity in the Red Sea.<sup>11</sup>
- 20. As of April 2024, the total number of members and/or fighters linked to Ansar Allah is unclear. A 12 January 2024 Reuters report suggests that Ansar Allah has "acquired tens of thousands of fighters". <sup>12</sup>

## **Ideology and Objectives**

- 21. The founder of Ansar Allah, Hussein al-Houthi, introduced the Ansar Allah slogan "Death to America, Death to Israel, Curse upon the Jews, Victory to Islam" in the early 2000s. The slogan adopts the colours of the Iranian flag, red, white and green, and shares similarity with the Iranian motto, "Death to America", adopted during street protests in 1979. 14
- 22. Ansar Allah's ultimate objective beyond rebellion against the internationally recognised Yemen Government is unclear. Ansar Allah rejects characterisations of its organisation as a formal political body, however, it operates as a pseudo-government within areas under its control, having taken over both formal and informal institutions of governance throughout northern Yemen.<sup>15</sup>
- 23. In addition, Ansar Allah has adopted a 'divide and rule' approach to tribal institutions, which make up much of the informal governance structure in northern Yemen. Ansar Allah has actively fostered competition among rival tribes, rewarding support and recruits for its war effort against Ansar Allah's enemies. <sup>16</sup>

# Links to Other Groups

- 24. Ansar Allah is widely reported as being supported by Iran.<sup>17</sup> Iran denies this claim, <sup>18</sup> even though weaponry used by Ansar Allah has been analysed as Iranian-made, and maritime vessels have been intercepted while attempting to deliver weaponry from Iran to Yemen. <sup>19,20</sup>
- 25. As members of the Iran-led coalition "axis of resistance" Ansar Allah is thought to be in contact with like-minded actors including Lebanese Hezbollah, Hamas, Islamic Resistance in Iraq, and members of the Syrian government. In October 2023, Hamas' military commander Mohammed Deif, called on support from members of "the axis" stating "Our brothers in the Islamic resistance in Lebanon, Iran, Yemen, Iraq and Syria, this is the day when your resistance unites with your people in Palestine". 23

# Weapons, Tactics, and Capability

# Military Capability and Tactics

- 26. In 2014, Ansar Allah seized control of Sana'a, the capital of Yemen, and obtained access to various Yemeni military equipment.<sup>24</sup> Since then its military capability has expanded to include anti-ship ballistic missiles, cruise missiles, drones, UAVs, artillery rockets, and anti-material rifles.<sup>25,26</sup>
- 27. Ansar Allah routinely operates from provinces within its controlled territory in North Yemen and the Red Sea.<sup>27</sup> Saudi armed forces report that over a period of six years Ansar Allah launched 851 UAVs, and 430 rockets and ballistic missiles against Saudi targets.<sup>28</sup>

## Funding Sources

- As detailed above, Ansar Allah is widely referred to as "Iran-backed", receiving weaponry, training, and intelligence support.<sup>29</sup> A number of individuals have been designated by the Department of the Treasury's Office of Foreign Assets Control (OFAC) after they were found to be facilitating the flow of Iranian financial assistance to Ansar Allah forces and their destabilizing activities.<sup>30</sup> Iran denies allegations of providing funding and support to Ansar Allah.<sup>31,32</sup>
- 29. UN experts stated in a report to the UN Security Council that between April and November 2022, 1,810,498 tons of oil derivatives were delivered to the Ansar Allah-controlled Hodeida port. This was estimated to have generated approximately US\$271 million for Ansar Allah. The money was understood to have been misappropriated. Instead of paying public workers in their regions of control, Ansar Allah used it to finance their military activities.<sup>33</sup>
- 30. An unknown portion of Ansar Allah's revenue is received through drug smuggling and open drug markets in Ansar Allah-controlled areas of Yemen.<sup>34</sup>
- 31. In addition, Ansar Allah reportedly receives funding from local supporters and sympathetic charities.<sup>35</sup>

## Attacks on Schools

32. Between April 2013 to 31 December 2018 the United Nations verified 43 instances in which Ansar Allah had attacked schools.<sup>36</sup> Its methods include storming into schools, forcing the teachers and the students to repeat Ansar Allah slogans and threatening those who refuse to comply. Some of the schools were also closed by Ansar Allah. In 2018 Ansar Allah shut down a school in Sa'dah and threatened to arrest the staff should they reopen. Schools have also been used by Ansar Allah for military purposes, training recruits in fighting methods, how to handle weaponry, and spreading propaganda.<sup>37</sup>

### Child Soldier Recruitment

- 33. Ansar Allah maintains a number of local centres that are used to hold various activities including prayers, sermons and lectures where young boys and men are encouraged to join the front line to defend Yemen against the Saudi-led coalition.<sup>38</sup>
- 34. Ansar Allah has recruited children to fight on the front line for several years. Since 2010, the UN has verified at least 1,851 individual cases of child recruitment or use by Ansar

- Allah.<sup>39</sup> The Euro-Mediterranean Human Rights Monitor released a report stating that Ansar Allah has forcibly recruited 10,300 children since 2014.<sup>40</sup>
- 35. In areas of Yemen where the economy has suffered due to the war, schools have closed and many families cannot afford to get their children to school. Families in Yemen report that this has seen an increase in recruitment of children.<sup>41</sup>

## Withholding International Assistance

- 36. The ongoing conflict in Yemen has resulted in about two-thirds of the population being in need of some form of humanitarian assistance. A recruitment technique used by Ansar Allah includes the use of salaries and food baskets for families who are willing to join it.<sup>42</sup>
- 37. During the COVID-19 pandemic, Ansar Allah blocked 262 containers of aid in Hodeida port belonging to the World Health Organization as well as a large shipment of Personal Protective Equipment (PPE). It tried to use these shipments as leverage for negotiations relating to the lifting of other aid obstacles, eventually releasing 118 of the container's months later. Ansar Allah's continued obstruction of aid has resulted in international aid doners reducing their funding for aid agencies in Yemen.

# Authoritarian Restriction of Civil Rights

- 38. Ansar Allah closed down main roads in and out of Taiz, the third largest city in Yemen. 44 This has caused patients with illness increased difficulty at receiving the help they need from specialised hospitals, stopped students from being able to attend university and blocked factory employees from going to work. 45 Although travel across Taiz is possible, a journey that would once take 15mins may now at least 8 hours through a mountainous road that has not been maintained since the blockade. 46 Civilian areas and medical facilities in Taiz have been reportedly shelled by Ansar Allah as a result of the struggle between Ansar Allah and the Yemeni Government to have full control of the city. 47
- 39. In 2019, aid officials in Yemen reported that Ansar Allah has been manipulating data in malnutrition surveys used by the UN as a way to divert food aid into the key areas it controls.
- 40. On September 18, 2021, a firing squad linked to Ansar Allah shot and killed nine individuals after they were convicted by a "rebel court" of involvement in an airstrike that killed a leader of Ansar Allah in 2018. The UN's secretary general said the trial that convicted the individuals did not meet international standards.<sup>48</sup>

#### **CASE STUDIES**

# Case study #1, Red Sea, 19 November 2023

The facts

41. In late 2023, Ansar Allah stated that in solidarity with Palestine, it would attack Israeli ships in the Red Sea, and later released a graphic depicting an Israeli commercial vessel in flames with the words "We will sink your ships". In addition, on 14 March 2024 Abdulmalik al-Houthi, the leader of Ansar Allah, indicated that any ship linked to Israel is vulnerable to attack.<sup>49</sup>

42. On November 19 2023, Ansar Allah hijacked an Israeli-linked cargo ship, the *Galaxy Leader* and took 25 crew members hostage. <sup>50</sup> Houthi officials stated they hijacked the ship to retaliate for Israel's war against Hamas in Gaza although the crew have no connection to the conflict. <sup>51</sup> To date, Ansar Allah continues to detain the hostages.

The act meets the TSA criteria for designation

43. Ansar Allah has stated that these attacks are in support of the Palestinian people and their intention is to target any ship travelling through the Red Sea, and they will not stop their attacks until there is a ceasefire agreed in Gaza.<sup>52</sup> The continued unlawful detainment of the crew of the Galaxy Leader as an attempt to compel foreign states to act in support of a ceasefire breaches the Hostage Convention and satisfies section 5(1)(b) of the TSA.

# Case study #2, Red Sea, December 2023 – July 2024

The facts

- 44. Ansar Allah has since continued to target a number of vessels in the Red Sea with little to no connections to Israel.<sup>53</sup> The following attacks have threatened global supply chains and caused insecurity and disruption for traffic in the Red Sea and Suez Canal, an area of the globe that accounts for up to 30 percent of container ship traffic.<sup>54</sup>
  - On 6 February 2024, Ansar Allah claimed it had fired missiles and successfully caused damage to two ships, *Star Nasia* and *Morning Tide*. Ansar Allah's military spokesperson stated that they identified the Marshall Islands and Barbados-flagged ships, as American and British.<sup>55</sup> Following this attack, Ansar Allah reiterated its commitment to conducting attacks in the Red Sea against Israeli maritime navigation,<sup>56</sup> or vessels heading to the ports of 'occupied Palestine' until the siege is lifted.<sup>57</sup>
  - On 18 February 2024, Ansar Allah launched a missile attack targeting a Britishowned, Belizean-flagged vessel Rubymar. The attack caused significant damage to the vessel, forcing the crew to abandon ship.<sup>58</sup> The ship sunk approximately twelve days after it was abandoned during stormy weather in the Red Sea.<sup>59,60</sup>
  - On 25 February 2024, in the Gulf of Aden, CENTCOM believes Ansar Allah targeted a US-flagged, owned and operated oil tanker MV Torm Thor. A US guided missile destroyer shot down one anti-ship ballistic missile that had been launched into the Gulf of Aden from Ansar Allah controlled areas in Yemen. MV *Torm Thor* was not damaged and there were no injuries.<sup>61</sup>
  - On 7 March 2024, in the Gulf of Aden, Ansar Allah conducted an anti-ship ballistic missile strike on a Barbados-flagged cargo ship *True Confidence*. The vessel was manned by a crew of approximately 20 people, three of whom were fatally injured as a result of the attack. Yahya Sarea claimed that the vessel was targeted due to its American connection and that its crew "rejected warning messages from the Yemeni naval forces". The owners of the vessel reject this claim stating that the American connection is out-of-date information.<sup>62</sup>
  - On 14 March 2024, Abdulmalik al-Houthi stated in a televised speech that "we [now] aim to prevent ships associated with the Israeli enemy from crossing [Indian] Ocean towards South Africa and the Cape of the Good Hope". 63 This is

- an alternative route that vessels have taken in response to Ansar Allah's attacks in the Red Sea and Gulf of Aden region.
- On 26 April 2024, south-east of the Horn of Africa in the Indian Ocean, Ansar Allah struck the container vessel MSC Orion with a drone. There were no reports of injury or significant damage following this attack. This is the first reported instance of an attack to take place at a considerable distance from the Red Sea and Gulf of Aden. <sup>64</sup> In March 2024, Ansar Allah indicated that it would be expanding its area of attack. <sup>65</sup>

The act meets the TSA criteria for designation

- 45. These attacks were conducted in line with Ansar Allah's goal of compelling Israel to agree to a ceasefire in Gaza. These acts were therefore carried out with the purpose of advancing Ansar Allah's ideological/political cause and with the ultimate intention of coercing or forcing a government to do or abstain from an act (s 5(2)(b) TSA). While some of the attacks conducted by Ansar Allah against commercial vessels have resulted in only minimal damage to the vessels and have not resulted in the loss of life, these attacks have been conducted for the purposes of causing death or other serious bodily injury and/or causing serious damage to property (s 5(3) TSA).
- 46. This indicates that these attacks are at least evidence of preparing and planning terrorist acts, and attempting terrorist acts, even where the attacks themselves may not have been successful. Some of the attacks have resulted in death or serious bodily injury and/or serious damage to ships. As such, these attacks come within the definition of carrying out a terrorist act (s 5A TSA).

# LAW OF ARMED CONFLICT (LOAC)

- 47. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if two conditions are met. The first condition is that there must be a situation of armed conflict in those areas in which the entity conducts its operations, at the time the act occurs. Secondly, the act must accord with the rules of international law applicable to the conflict the law of armed conflict (LOAC). If one of these conditions is not met, the acts in question may constitute a terrorist act.
- 48. The activities of Ansar Allah referred to in paragraphs 41-43 of this paper occurred in a region where armed conflict exists in Yemen and in Israel. While it is difficult to assess whether the activities of Ansar Allah fall within the scope of the armed conflict in Israel, it is clearer that their activities can be assessed to fall within the scope of the Yemen armed conflict. On the basis that the activities of Ansar Allah referred to in paragraphs 41-43 of this paper occurred as part of one of these armed conflicts, it is nonetheless clear that Ansar Allah did not comply with the rules of international law applicable to an armed conflict. The intentional targeting of civilian ships that were not involved in either of these armed conflicts is not in accordance with LOAC.
- 49. Consequently, the acts do not meet the exemption in section 5(4) of the TSA and Ansar Allah's attacks are properly characterised as terrorist acts.

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<sup>2</sup> 28/02/2024, "Narrative Summaries of Reasons for Listing", United Nations Security Council, accessed at www.un.org/securitycouncil/content/houthis-0 on 10 April 2024.

<sup>3</sup> US Secretary of State, "Terrorist Designation of the Houthis."

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<sup>5</sup> 12/01/2024, "Who Are the Houthi Rebels? Red Sea Attacks Result in U.S. and U.K. Strikes on Yemen", Anna Gordon, TIME, accessed at www.time.com/6554861/yemen-houthi-rebels-history-cause-israel-hamas-war/ on 04 July 2024.

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<sup>10</sup> 02/02/2023, "Child Soldiers in Yemen: Cannon Fodder for an Unnecessart War", Afrah Nasser, Arab Center Washington DC, accessed as arabcenterdc.org/resource/child-soldiers-in-yemen-cannon-fodder-for-an-unnecessary-war/ on 26 April 2024.

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<sup>23</sup> 16/11/2023, "Insight: Iran's 'Axis of Resistance' against Israel faces trial by fire", Parisa Hafezi, Laila Bassam and Arshad Mohammed, Reuters, accessed at <a href="https://www.reuters.com/world/middle-east/irans-axis-resistance-against-israel-faces-trial-by-fire-2023-11-15/#:~:text=On%20Oct.,said%20in%20an%20audio%20message">https://www.reuters.com/world/middle-east/irans-axis-resistance-against-israel-faces-trial-by-fire-2023-11-15/#:~:text=On%20Oct.,said%20in%20an%20audio%20message</a> on 04 June 2024.

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